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## WISCONSIN LEGISLATIVE COUNCIL

### AMENDMENT MEMO

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<b>2002 May Special Session Assembly Bill 1</b>	<b>Assembly Substitute Amendment 1</b>
<i>Memo published:</i> May 15, 2002 <i>Contact:</i> Mark C. Patronsky, Senior Staff Attorney (266-9280) John Stolzenberg, Staff Scientist (266-2988)	

2002 May Special Session Assembly Bill 1 contains a number of provisions relating to funding the efforts of the Department of Natural Resources (DNR), the Department of Agriculture, Trade and Consumer Protection (DATCP) and the Veterinary Diagnostic Laboratory to manage and attempt to control chronic wasting disease, which is a disease of deer and elk. The bill also contains provisions that give DNR and DATCP specific regulatory and management authority related to this disease.

The bill makes a number of changes to current law that are described in the analysis by the Legislative Reference Bureau. Assembly Substitute Amendment 1 makes the following changes to current law:

#### **1. Funding Provisions**

The substitute amendment provides funding of \$2,000,100 in fiscal year 2002-03, from the revenues from the wildlife damage surcharge collected on the sale of most hunting licenses, to manage and conduct testing for chronic wasting disease in deer and elk, and authorizes 3.0 positions to DNR.

The substitute amendment authorizes the DNR to supplement this funding by up to \$2,000,000 from segregated fund sources in a passive Joint Committee on Finance review process. Of this amount, no more than \$1,000,000 may come from wildlife damage surcharge revenues.

Approximately \$900,000 of the funding specified above is provided to the Veterinary Diagnostic Laboratory for the purpose of testing for chronic wasting disease, and the substitute amendment lapses \$933,900 from the appropriation to the University of Wisconsin System for the Veterinary Diagnostic Laboratory to the general fund. The substitute amendment authorizes 6.0 positions to the Veterinary Diagnostic Laboratory for chronic wasting disease testing.

## **2. Management of Chronic Wasting Disease**

The DNR is given express authority to manage and to fund testing for chronic wasting disease. This authority is added to the DNR's broad authority under current statutes to manage fish and game and to prevent the spread of contagious disease in wild animals.

## **3. Hunting With the Aid of an Aircraft**

The substitute amendment authorizes a state or federal employee or agent, within the scope of his or her employment or agency, to hunt an animal in the wild with the aid of an aircraft. This hunting must be within a DNR-designated chronic wasting disease eradication zone, and the employee or agent must be taking the animal for purposes of testing or removing diseased animals. This authority is an exception to the current statutory prohibition on hunting with the use of an aircraft. "Aircraft" is defined in the statutes to mean any device used or designed for flight in the air. This provision sunsets after August 31, 2007, unless the standing committee for natural resources of each house of the Legislature determines by a majority vote that the statute continues in effect.

The substitute amendment requires DNR to promulgate rules specifying the conditions under which aircraft may be used for this purpose. The rules may authorize shooting animals using an aircraft only if the DNR considers all other alternatives and determines that the shooting is necessary in order to control the spread of disease in animals. The department is prohibited from promulgating these rules as emergency rules.

## **4. Recreational and Supplemental Feeding of Wild Animals**

The substitute amendment directs the DNR to promulgate rules to regulate the recreational and supplemental feeding of wild animals for purposes other than hunting. DNR has authority to regulate the use of bait in connection with hunting under current statutes. These rules sunset after August 31, 2007, unless the standing committees for natural resources in each house of the Legislature determines by a majority vote that the rules continue in effect.

## **5. Hunting From a Vehicle, Roadway or Motorboat**

The current statutes prohibit carrying a firearm, bow or crossbow in or on a vehicle; carrying a loaded firearm in a motorboat with the motor running; loading or discharging a firearm or shooting a bow and arrow in or from a vehicle; and discharging a firearm or shooting a bow or an arrow from or across a highway or within 50 feet of the center of a roadway. The substitute amendment makes these statutes inapplicable to a state or federal employee or agent, acting within the scope of his or her employment or agency, who is authorized by DNR to take animals in the wild for testing or removal of diseased animals within an area designated by the DNR as a chronic wasting disease eradication zone. This statute does not apply after August 31, 2007, the standing committee for natural resources of each house of the Legislature determines by a majority vote that the statute continues in effect.

## **6. Surveillance and Testing of Chronic Wasting Disease**

The substitute amendment authorizes DATCP to conduct surveillance testing to determine whether animals have chronic wasting disease if the department has a reason to believe the animals have

been exposed to chronic wasting disease. DATCP is required to indemnify the owner of an animal that must be killed in order to conduct the testing if federal or program revenue funds are available to DATCP for this indemnification. The DNR may contract with DATCP for this indemnification. The substitute amendment sets limits on the amount of the indemnity which are the same as current statutory limits for reimbursement for condemned livestock.

#### **7. Effective Period of Emergency Rules**

The substitute amendment creates a special provision regarding the effective period of emergency rules promulgated by the DNR and DATCP relating to chronic wasting disease. The DATCP emergency rules took effect on April 9, 2002, and the DNR emergency rules will be promulgated soon. Current statutes limit emergency rules to no more than 270 days (approximately nine months). The substitute amendment authorizes JCRAR to grant any number of extensions to these rules, for periods specified by the committee, except that the emergency rules may not be extended beyond September 1, 2003. Further, DNR and DATCP are authorized to amend the emergency rules while they are in effect using the procedure for promulgation of emergency rules, and the amendment remains in effect for the same period as applied to the original emergency rule.

On May 14, 2002, the Assembly Natural Resources Committee recommended the substitute amendment for passage on a vote of Ayes, 13; Noes, 0.

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